1	BILL NO. G-85-03-49
2	GENERAL ORDINANCE NO. G- 08-85
3	AN ORDINANCE amending the Thoroughfare Plan of the City Comprehensive ('Master') Plan by vacating an alley thereof.
4	WHEREAS, a petition to vacate anutility easement within the City
5	
6	of Fort Wayne (as more specifically described below) was duly filed with
7	the City Planning Commission; and
8	WHEREAS, said Commission duly held a public hearing thereon; and
9	WHEREAS, said Commission has duly forwarded its recommendation
10	to this body approving said petition, all in accordance with I.C. 36-7-4-512(2
11	and this body having held a public hearing on said vacation as provided in
12	I.C. 36-7-3-12; and
13	WHEREAS, this body concurs in the recommendation of the City
14	Planning Commission.
15	NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY
16	OF FORT WAYNE, INDIANA:
	SECTION 1. That the petition filed herein to vacate a utility
17	easement with the City of Fort Wayne, more specifically described as
18	follows, to-wit:
20	Utility easement between Lot No. 6 & 7 in Centennial Industrial Park, Section II, an addition to the City of Fort Wayne, according to the recorded plat thereof;
21	and which vacating amends the Thoroughfare Plan of the City Comprehensive
22	((''Master'') Plan and is hereby approved in all respects.
23	SECTION 2. That this Ordinance shall be in full force and
24	effect from and after its passage, any and all necessary approval by the Mayor
25	effect from and after its passage, any and arr necessary approval and arrest trom and after its passage, any and arr necessary approval arrest arrest and arrest ar
26	Marle 6. Rosa
27	COUNCILMEMBER
28	APPROVED AS TO FORM AND LEGALITY:
29	Bruce O. Gogberger
30	BRUCE O. BOXBERGER, CITY ATTORNEY
31	** Public hearing to be held on,the
32	day of1985, in the Council Chambers.

Sandra E. Kennedy, City Clerk

seconded by by title and r Plan Commission	eferred to to for recomm	he Committe endation) a	and on motion by and duly adopted, se figural to and Public Hearing bers, City-Count	read the se (an	d the
Indiana, on		, the	24		ay of
		, 19	, at	o'clock_	M
DATE:	326	85	SANDRA E. KE	(4)	CLERK
seconded by PASS	Alle	ico	and on motion by , and duly adollowing vote:	dopted, place	
	AYES	NAYS	ABSTAINED	ABSENT T	O-WIT
TOTAL VOTES	7				
BRADBURY	-	4			
BURNS					
EISBART					
GiaQUINTA					
HENRY				-	
REDD					
SCHMIDT			Marie		•
STIER					
TALARICO					
DATE:	4-23-0	15	SANDRA E. KI	ENNEDY, CITY	CLERK
Passe	d and adopte	d by the Co	mmon Council of	the City of	Fort
Wayne, Indiana	, as (ANNEXA	TION) (AP	PROPRIATION)	(GENERAL)	87
(SPECIAL) (Z	ONING MAP)	ORDINANCE	(RESOLUTION)	10. X+08	05
on the	231N	_day of	april	, 1	985
	ATTEST:		(SEAL)		
Made	ide Bake	uff	Mark E	. Cha Quin	ta
SANDRA E. KENN	EDY, CITY CI	Liputs	PRESIDING OF	FFICER	
Prese	ented by me t	to the Mayor	of the City of	Fort Wayne,	Indian
on the	420	day of	april .	, 1	9/3
at the hour of		-	06	.м.,E.S.Т.	
			SANDRA EL KI	Le Cohar	CLERK
Appro	oved and sign	ed by me th	nis 35th day of	April	ygung
19 <u>85</u> , at	the hour of	. 900	o'clock	A .M., E.S	.т.
				0	
			The state of the s	TR MAYOR	

STATE OF INDIANA) BEFORE THE CITY OF FORT WAYNE PLAN
) SS: COMMISSION AND THE COMMON COUNCIL
COUNTY OF ALLEN) OF THE CITY OF FORT WAYNE, INDIANA

IN RE: VACATION OF EASEMENT BETWEEN LOTS NO. 6 AND 7 IN CENTENNIAL INDUSTRIAL PARK, SECTION II, AN ADDITION TO THE CITY OF FORT WAYNE, ACCORDING TO THE RECORDED PLAT THEREOF

PETITION TO VACATE EASEMENT BETWEEN LOTS NO. 6
AND 7 IN CENTENNIAL INDUSTRIAL PARK, SECTION II,
ADDITION TO THE CITY OF FORT WAYNE, ACCORDING
TO THE RECORDED PLAT THEREOF

TO: CITY OF FORT WAYNE PLAN COMMISSION AND COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA

Your Co-Petitioners, CENTENNIAL DEVELOPMENT CORPORATION, and WAYNE FASTENERS, INC., respectfully petition the City of Fort Wayne Plan Commission and the Common Council of the City of Fort Wayne to approve the vacation of the easement between the Lots heretofore described in the caption hereof, said easement to be vacated being shown as a cross-hatched area on Exhibit "A," which said Exhibit is attached hereto, incorporated herein and made a part hereof.

In support of said petition, your Co-Petitioners respectfully represent the following:

The Plat of Centennial Industrial Park, Section II, was fully and finally approved by all appropriate and required authorities and recorded on November 4, 1977. All developmental improvements were thereafter installed, including streets, sewers and utilities. No utilities have been installed in said easement nor are any intended.

Co-Petitioner, WAYNE FASTENERS, INC., intends to construct a commercial building over said Lots, but the construction and placement of said building over said Lots would result in an encroachment on a major portion of the easement.

The utility easement sought to be vacated is not required to accommodate drainage or for current or future utility requirements on said Lots or other real estate in Centennial Industrial Park.

Should the Plan Commission and the Common Council of the City of Fort Wayne grant this petition for vacation of said easement cross-hatched on Exhibit "A," an encroachment will be avoided, and the remaining portion of the easement preserved so as to accommodate drainage and other possible future utility requirements.

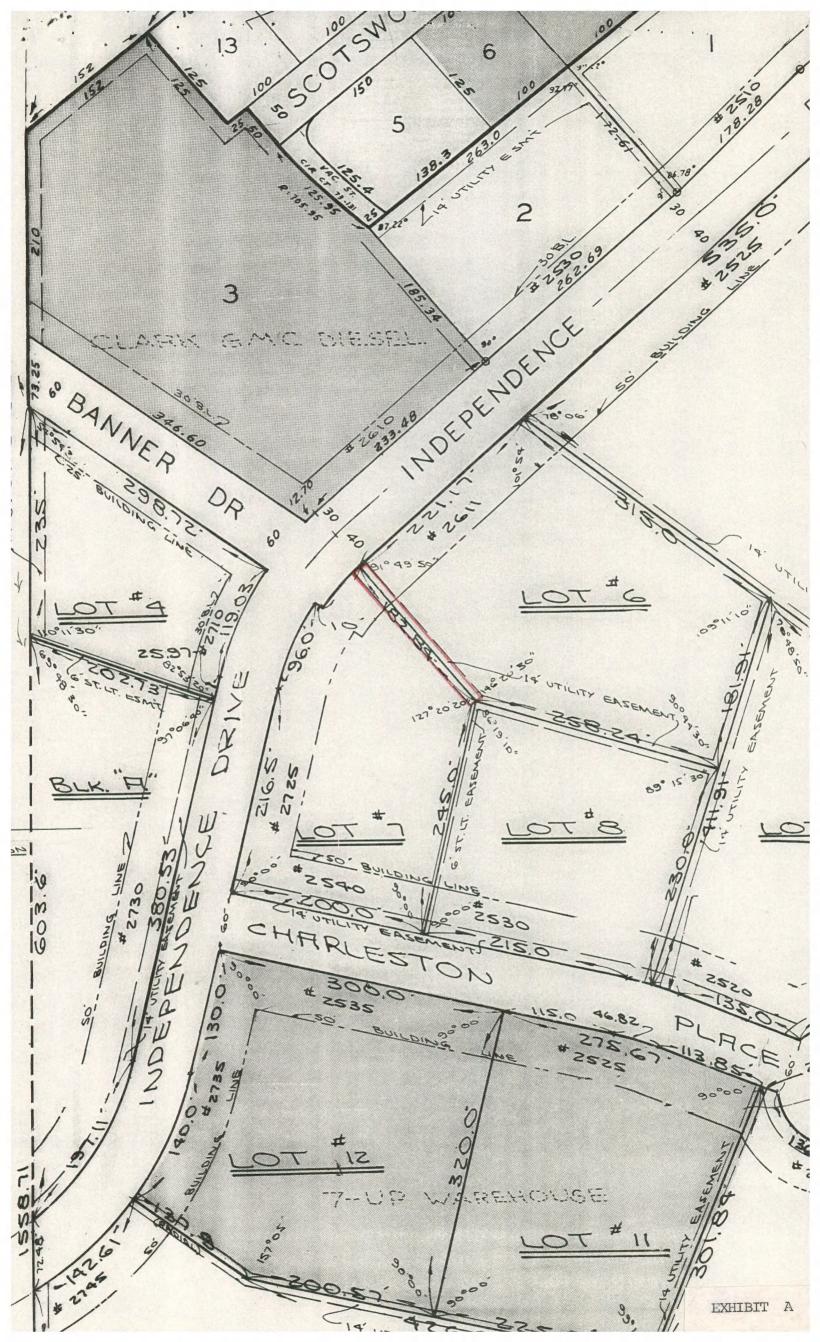
The name and address of the owners of all land abutting the portion of the easement proposed to be vacated is as follows: CENTENNIAL DEVELOPMENT CORPORATION, in care of Paul W. Seitz, 6100 Ardmore Avenue, Fort Wayne, Indiana, 46809; and WAYNE FASTENERS, INC., 2725 Independence Drive, Fort Wayne, Indiana, 46808.

WHEREFORE, your Co-Petitioners pray that said easement between Lots No. 6 and 7 in Centennial Industrial Park, as shown by cross-hatching on Exhibit "A" attached hereto be vacated and that the Commission forward its recommendations with respect thereto to the governing body or bodies having jurisdiction over the area.

CENTENNIAL DEVELOPMENT CORPORATION

	Paul W. Seitz, President
	Paul W. Seitz, President
	WAYNE FASTENERS, INC.
	By Thomas Muson President
	220020010
STATE OF INDIANA)) SS:	
COUNTY OF ALLEN)	
qualified President of CENT the execution of the forego	Seitz, known to me to be the duly acting and ENNIAL DEVELOPMENT CORPORATION, who acknowledged ing Petition to be the true, voluntary and oration for the uses and purposes therein
	nd Notarial Seal, this <u>21st</u> day of <u>February</u>
1985. My Commission Expires:	Detty J. Mitchell County of Residence: Allen Notary Public
My Commission Expires: May 5, 1985	Betty J. Mitchell Notary Public
1985. My Commission Expires: May 5, 1985 STATE OF INDIANA)) SS:	Betty J. Mitchell Notary Public
My Commission Expires: May 5, 1985 STATE OF INDIANA) SS: COUNTY OF ALLEN) Before me, a Nota personally appeared Thomas acting and qualified acknowledged the execution voluntary and authorized according according and authorized according according to the security and authorized according to the security and authorized according to the security according to the security and authorized according to the security according to the securit	Betty J. Mitchell Notary Public
My Commission Expires: May 5, 1985 STATE OF INDIANA) SS: COUNTY OF ALLEN) Before me, a Nota personally appearedThomas acting and qualifiedacknowledged the execution voluntary and authorized actherein mentioned.	Betty J. Mitchell County of Residence: Notary Public Allen Public in and for said County and State, F. Mason President of WAYNE FASTENERS, INC., who of the foregoing Petition to be the true, of said corporation for the uses and purposes and Notarial Seal, this 21st day of February
My Commission Expires: May 5, 1985 STATE OF INDIANA) SS: COUNTY OF ALLEN) Before me, a Nota personally appeared Thomas acting and qualified acknowledged the execution voluntary and authorized actherein mentioned. WITNESS my hand a	Betty J. Mitchell Notary Public County of Residence: Notary Public Allen Allen Ty Public in and for said County and State, E. Mason , known to me to be the duly President of WAYNE FASTENERS, INC., who of the foregoing Petition to be the true, et of said corporation for the uses and purposes

THIS INSTRUMENT PREPARED BY
LAWRENCE E. SHINE - SHOAFF, PARKER & KEEGAN
2400 Fort Wayne Bank Bldg., P.O. Box 12709
Fort Wayne, Indiana 46864



RESOLUTION 75-3-5

WHEREAS, PAUL W. SEITZ, PRESIDENT OF CENTENNIAL DEVELOPMENT CORPORATION and THOMAS E. MASON, PRESIDENT OF WAYNE FASTENERS, INC., have petitioned and requested the Fort Wayne Ctiy Plan Commission to hold a public hearing upon the vacation of the following dedicated utility easement situtated in Fort Wayne, Allen County, to-wit:

Easement between Lots No. 6 & 7 in Centennial Industrial Park, Section II, addition to the City of Fort Wayne, according to the recorded plat thereof

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-4-512; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said vacation of an easement has been routed through the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Electrical Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said easement hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of said public easement hereinbefore described be and the same is hereby approved subject to easements as required by all public utilities occupying and using said public easement or part thereof for the vacation and operation of its utility facilities shall not be deprived of said use on account of these proceedings unless any said utilities shall file a written consent to said vacation.

STATE OF INDIANA)

SS:

COUNTY OF ALLEN

I, Awril A. Lustur , Chairman of the Board of Public Works, do hereby certify that attached hereto is a full, true, and correct copy of a resolution adopted by the Fort Wayne Board of Works at their meeting held and as same appears of record in the official records of said Board of Public Works.

DATED THIS 3 M DAY OF JUNE 1985

osexu

FORT WAYNE BOARD OF PUBLIC WORKS

David J. Kiester, Birector of Public Works

Cosette R. Simon, Director of Administration & Finance

Lawrence D. Consalvos, Director of Public Safety

RESOLUTION

WHEREAS, PAUL W. SEITZ, PRESIDENT OF CENTENNIAL DEVELOPMENT CORP-ORATION and THOMAS E. MASON, PRESIDENT OF WAYNE FASTENERS, INC., have petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated easement in Fort Wayne, Allen County, to-wit:

Easement between Lots No. 6 & 7 in Centennial Industrial Park, Section II, addition to the City of Fort Wayne, according to the recorded plat thereof

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of 1963 of the General Assembly of the State of Indiana, Indiana Code, Section 36-7-4-512.

WHEREAS, notice of such public hearing has been given by due and proper publication thereof; and,

WHEREAS, said public hearing was held on March 18, 1985 at 7:00 p.m., and at such hearing there were no objections of any kind or character which should prevent the vacation of said dedicated easement.

WHEREAS, said vacation of the easement has been routed through the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said easement hereinbefore described conforms to the general policy pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana;

BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated easement hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said dedicated easement or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

BE IT FURTHER RESOLVED that the action of the Fort Wayne City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of said easement in Allen County, Indiana.

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

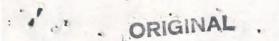
I, Melvin O. Smith , Secretary of the Fort Wayne City Plan Commission, do hereby certify that the attached is a full, true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held March 25, 1985, and as the same appears of record in the official records of said Plan Commission.

DATED THIS 8th DAY OF April 1985

Celui O. Smut

ORT WAYNE CITY PLAN COMMISSION

Melvin O. Smith



Admn.	Appr.	

ORIGINAL	DIGEST SHEET	ORIGINAL
TITLE OF ORDINANCE _	Easement Vacation Ordinance	10-85-03-49

DEPARTMENT REQUESTING	ORDINANCE Land Use Management - CD&P
SYNOPSIS OF ORDINANCE	Easement between Lots 6 & 7 in Centennial Industrial
Park, Section II	
· · · · · · · · · · · · · · · · · · ·	
1	
	Facement will be weeted and anterest to animate was to
EFFECT OF PASSAGE	Easement will be vacated and return to private use by
adjacent property	owners,
EFFECT OF NON-PASSAGE	Easement will remain a public easement.
MONEY INVOLVED (Direct	t Costs, Expenditures, Savings)
(ASSIGN TO COMMITTEE ((J.N.)

FACT SHEET

G-85-03-49

BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE

Easement Vacation Ordinance

APPROVAL DEADLINE REASON

ETAILS	POSITIONS	RECOMMENDATIONS
Specific Location and/or Address	Sponsor	
Easement lying between Lots 6 & 7 in Centennial Industrial Park, Section II	Area Affected	City Plan Commission City Wide
Reason for Project	Area Arrected	City Wide
To allow construction of a new commercial building.		Other Areas
	Applicants/ Proponents	Applicant(s) Centennial Development Corp. City Department Other
Discussion (Including relationship to other Council actions)	Opponents	Groups or Individuals
March 18, 1985 Public Hearing		
Larry Shine, attorney for the peitioners, stated that Wayne Fasteners, Inc., wanted to enlarge their business. He stated in order to construct a new building they would be encroaching into the easement unless it were to be vacated. He stated that the easement is not necessary for the mainten-	Staff Recommendation	Basis of Opposition X For Against
There was no one present who wished to speak in favor of or in opposition to the proposed vacation.	10	Reason Against
March 21, 1985 Business Meeting	Board or	By
Motion to approve was made and carried.	Commission Recommendation	For Against No Action Taken For with revisions to conditions (See Details column for conditions
	CITY COUNCIL ACTIONS (For Council use only)	Pass Other Pass (as Hold amended) Council Sub. Do not pass

AILS		POLICY/ PROG	RAM' IMPACT
		Policy or Program Change	No Yes
		Operational Impact Assessment	
		(This	space for further discussion)
Project Start	Date Februar	y 22, 1985	
Projected Completion or Occupancy	Date April A	+, 1985	
Fact Sheet Prepared by	Date April A	1985	
Pat Biancaniello Reviewed by	Date April A	+, 1985	

Reference or Case Number



The City of Fort Wayne

April 10, 1985

Larry Shine, Attorney 2400 Fort Wayne National Bank P.O. Box 12709 Fort Wayne, IN 46802

Dear Mr. Shine:

NOTICE OF PUBLIC HEARING ON BILL NO. G-85-03-49

You are hereby notified that the Common Council of the City of Fort Wayne, will conduct a public hearing on Tuesday, April 23, 1985, at 7:00 P.M., in Room 128 Common Council Conference Room, City-County Building, One Main Street, .. Fort Wayne, Indiana, on the following:

> Easement between Lots 6 & 7 in Centennial Industrial Park, Section 11, Addition to the City of Fort Wayne, according to the recorded plat thereof.

All interested persons are invited to appear and be heard. Any written material may be submitted to the Common Council prior to the hearing.

Sincerely,

Sandra E. Kennedy City Clerk

NOTICE OF PUBLIC HEARING FORT WAYNE COMMON COUNCIL BILL NO. G-85-03-49

Notice is hereby given that the Fort Wayne Common Council of the City of Fort Wayne, will conduct a public hearing on Tuesday, April 23, 1985, at 7:00 P.M., in Room 128, City-County Building, One Main Street, Fort Wayne, Indiana more particularly described as follows:

Easement between Lots 6 & 7 in Centennial Industrial Park, Section 11, Addition to the City of Fort Wayne, according to the recorded plat thereof.

All interested persons are invited to appear and be heard.

Fort Wayne Common Council

Sandra E. Kennedy City Clerk



The City of Fort Wayne

April 10, 1985

Ms. Trudy Sterling Fort Wayne Newspapers, Inc. 600 West Main Street Fort Wayne, IN 46802

Dear Ms. Sterling:

Please give the attached full coverage on the date of April 12, 1985, in both the News Sentinel and the Journal Gazette.

> RE: Fort Wayne Common Council legal notice

> > Bill No. G-85-03-49 Easement

Please send us 4 copies of the Publisher's Affidiavit from both newspapers.

Thank you.

Sincerely yours, F. Lennedy

Sandra E. Kennedy

City Clerk

SEK/ne ENCL: 1

Fort	Wayne	Common	Council
 Aller	vernmental U	nit) County	, IN

ToJOURNAL-GAZETTE Dr.
P.O. BOX 100
FORT WAYNE, INDIANA

	PUBLISHER	'S CLAIM			
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	ot exceed two actual lines, neither of which shi ich the body of the advertisement is set) - nur				
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Body number of 1	ines		11		
Tail number of lin	ies		3		
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17 lines, cents per li	1columns wide equals	7 equivalent lines at	\$5.10		
Additional charge for n	otices containing rule or tabular work (50 per	cent of above amount)			
Charge for extra proofs	of publication (50 cents for each proof in exce	ess of two) 2 extra	1.00		
TOTAL AMO	UNT OF CLAIM		s6 · 10		
DATA FOR COMPUTING COST					
DATA FOR COMPUTING COST					
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I hereby certify that the foregoing account has been paid.	is just and correct, that the amount claimed is		d that no part of the same		
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		CLERK			
		E			
NOTICE OF PUBLIC HEARING FORT WAYNE COMMON COUNCIL BILL NO. G-85-03-49		newspaper of genei			
tice is hereby given that the Fort Wayne Common cil of the City of Fort Wayne, will conduct a public ng on Tuesday, April 23, 1985, at 7:00 p.m., in					
128, City-County Building, One Main Street, Wayne, Indiana more particularly described as issement between Lots 6 & 7 in Centennial	town of	FORT WAYNE, INDIANA			
trial Park, Section 11, Addition to the City of Fortie, according to the recorded plat thereof, interested persons are invited to appear and be	Fort				
fort Wayne Common Council Sandra E. Kennedy	as follows:		, the dates of publication being		
City Clerk	4/12/8	5	ALBERTA		
		Anniel .	- Horse		
	Subscribed and sworn to me before this	12th day of Apri	⊵ 85		
	Ani	ne M. Perkins Notary Publi	Miss		
	My commission expires	November 29, 1985			

Fort Wayne Comm	on Council		W-SENTINEL Dr	
(Governmental Unit) Allen	County, IN		O. BOX 100 WAYNE, INDIANA	
	PUBLISHER'S CLA	AIM		
LINE COUNT				
Display Matter (Must r	ot exceed two actual lines, neither of which shall total more hich the body of the advertisement is set) - number of equiva-			
Head number of	lines		3	
Body number of	lines		11	
Tail number of l	nes		3	
Total number	r of lines in notice		17	
COMPUTION OF CHARGES				
17lines,		alent lines at	\$5.10	
Additional charge for n	otices containing rule or tabular work (50 per cent of above	amount)		
Charge for extra proof	of publication (50 cents for each proof in excess of two)	2 extra	1.00	
TOTAL AMO	OUNT OF CLAIM		\$ 6.10	
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Pursuant to the provision and penalties of I hereby certify that the foregoing account has been paid.	Ch. 89., Acts 1967.	fter allowing all just credits, and	l that no part of the same	
		Drus	illa Ross	
Date Apr. 12 19 8	5	Title	CLERK	
FORM #903	PUBLISH State of Indiana ALLEN County SS:	HER'S AFFIDAVIT		
	Personally appeared before me, a notar	ry public in and for sa	aid county and state, the	
			who, being duly sworn, says	
NOTICE OF PUBLIC HEARING	NEWS-SENTINEL			
FORT WAYNE COMMON COUNCIL BILL NO. G-85-03-49	aDAILY	newspaper of genera	al circulation printed and published	
noll of the City of Fort Wayne, will conduct a public ing on Tuesday, April 23, 1985, at 7:00 p.m., in the English language in the city in 128, City-County Bullding, One Main Street, Wayne, Indiana more particularly described as				
ws: asement between Lots 6 & 7 in Centennis strial Park, Section 11, Addition to the City of Foi according to the recorded plat thereof. I interested persons are invited to appear and b	in state and county aforesaid, and that t			
d. Fort Wayne Common Counc Sandra E. Kenned	which was duly published in said paper for	CLINC	, the dates of publication being	
City Cleri	= follows: 4/12/85			
		Day - 100	Rang	
	Subscribed and sworn to me before this		. 19 85	
	CA.	erkins Notary Public	At Prins	
		er 29, 1985	110000	

BILL NO. G-85-03-49

NOTIFIED - Larry Shine / 2400 Fort Wayne Nat'l Bank / P.O. Box 12709 / City 46864

AGENT - only

NOTICE OF PUBLIC HEARING

You are hereby notified that the Fort Wayne City Plan Commission will conduct a public hearing on Monday, March 18, 1985 at 7:00 P.M. in Room #126, City-County Building, One Main Street, Fort Wayne, Indiana, on the following request to vacate an easement, more particularly described as follows.

Easement between Lots 6 & 7 in Centennial Industrial Park, Section II, Addition to the City of Fort Wayne, according to the recorded plat thereof.

All interested persons are invited to appear and be heard.

FORT WAYNE CITY PLAN COMMISSION

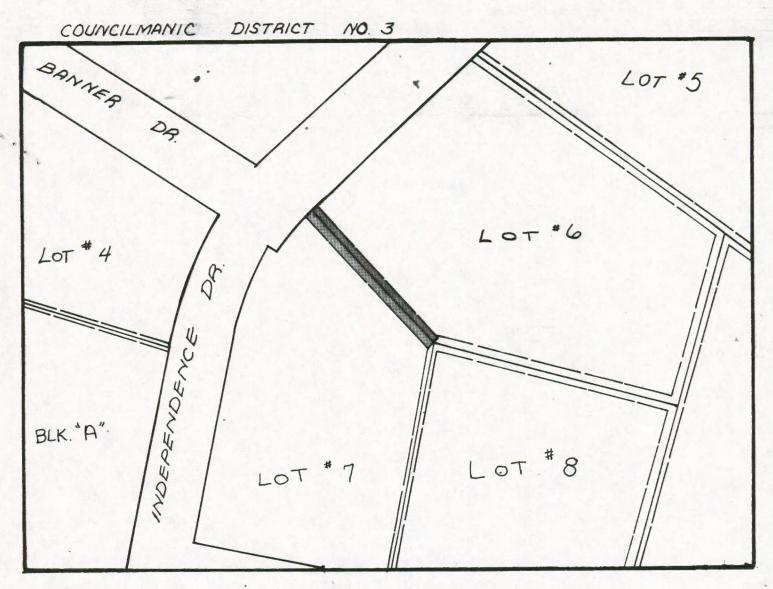
Melvin O. Smith Secretary

rescribed by State Board of Accounts	BOYCE CO., MUNCIE, IND. GENERAL FORM NO. 352
RECEIPT	
COMMUNITY DEVELOPMENT & PLANNING	Nº 10883
FT. WAYNE, IND., Tols 22 1985	
RECEIVED FROM SMANCO TIVE	\$ 100
THE SUM OF One Hundred and no are hundreds	Dollars
ON ACCOUNT OF VACTOR - Essent biling hat	687
Centennal ded Park, Ser II	And Andrews - And Andrews - And Andrews - Andr
AUTHORIZ	ED SIGNATURE

VACATION - #116

LOTS & AND 7.

MAP NO. 1-22



Zoning:

Land Use:

BILL NO. G-85-03-49

NORTH

-24-Date: 3-/-85

REPORT C	OF THE COMMITTEE ON	REGULATIONS
WE, YOUR COMMITTEE ON	REGULATIONS	TO WHOM WAS
REFERRED AN (ORDINANCE	(RKSOKNTION) am	ending the Thoroughfare Plan
of the City Comprehensi	ive ('Master") Plan by	vacating an alley thereof
LEAVE TO REPORT BACK T	O THE COMMON COUNCIL	THAT SAID (ORDINANCE)
YES		NO
March B. Re	CHARLES B. REDD CHAIRMAN	
Junet N. Brake	JANET G. BRADBURY VICE CHAIRWOMAN JAMES S. STIER	
1 Con	BEN A. EISBART	
	DONALD J. SCHMIDT	
concurred in 4-23	3-85	SANDRA E. KENNEDY